

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:16-CR-00307-RJC-DCK

USA )  
 )  
 v. ) ) ORDER  
 )  
 DAVID PATE (2) )  
 )

**THIS MATTER** is before the Court upon another motion of the defendant pro se to amend his presentence report (PSR). (Doc. No. 335).

The defendant asks the Court to redact any information in the PSR that might prevent him from earning the Early Release Benefit under the Residential Drug Abuse Program (RDAP), 18 U.S.C. §3621(e). (*Id.* at 1). The Court previously denied a similar request. (Doc. No. 324: Order). The defendant now cites United States v. Fraley, 2007 WL 1876455 (E.D. Ky. June 27, 2017), as authority for the redaction he seeks. In that proceeding under 28 U.S.C. § 2255, a district court removed a sentencing enhancement based on the intent of the parties and the sentencing court that the defendant receive early release following completion of RDAP.

Here, the defendant has not shown that the parties had such an agreement. Additionally, this Court merely recommended participation in substance abuse treatment and benefits under § 3621(e) “if eligible.” (Doc. No. 248: Judgment at 2). Accordingly, redaction of the PSR to encourage his eligibility is not warranted based on the Fraley decision, which is not binding on this Court.

**IT IS, THEREFORE, ORDERED** that the defendant's motion, (Doc. No. 335), is **DENIED**.

Signed: January 14, 2020



Robert J. Conrad, Jr.  
United States District Judge

